

GENERAL INFORMATION QUESTIONS COMMONLY ASKED

Below are some commonly asked questions regarding the licensing and use of OSCAs.

1. What is the statutory authority for licensing OSCAs in California?

Government Code Section 8670.13.1 requires the Administrator of the Office of Spill Prevention and Response to license all oil spill cleanup agents for use in the waters of the State.

2. What are the regulations that govern the licensing and use of OSCAs in California?

The regulations governing the licensing and use of OSCAs are set forth in Chapter 8, Sections 884-886.6, Title 14 of the California Code of Regulations. These are interim regulations that are "essentially similar to the one" used by the Water Board. Revised regulations will be implemented by 1/1/99. A copy of these regulations are included in this Guidance Document.

3. What is the definition of an OSCA?

An oil spill cleanup agent (OSCA) is defined as a chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any waters of the state. This category of substances would include surface washing agents, dispersants, gelling agents, herding agents, emulsifiers-demulsifiers, chemical booms, sorbents and bioremediants.

4. What types of products are exempted from the OSCA licensing procedures?

Within the broad category of substances considered OSCAs, the statute provides an "exemption" from the licensing procedures for products that would otherwise be considered "inert." Specifically, Government Code Section 8670.13.1(b) states that sorbents and other cleanup devices that do not employ the use of active chemical cleanup agents, or otherwise determined by the Administrator not to cause aquatic toxicity for purposes of oil spill response, are not subject to the licensing provisions.

If a determination is made that a product does not pose aquatic toxicity for purposes of oil spill response, an exemption letter will be issued to the vendor for the product. The exemption is valid indefinitely as long as the material information used in making the determination has not been altered in any substantial way. The forms and procedures required for an exemption

determination are included in this Guidance Document.

*** It is important to keep in mind that a product is not necessarily "inert" simply because it is "naturally occurring." For example, sorbent clays and peat-moss products are naturally occurring and, as such, people may believe them to be "inert"; however, some clays contain high heavy metal concentrations which can leach out into the water, and peat moss products can cause water acidification. Elevated heavy metal concentrations and excess hydrogen ion concentrations are deleterious to many aquatic organisms, especially in fresh water environments. It is for these reasons that it is necessary for the Administrator to make the final determination whether a product must be licensed.

5. If my product is already listed on the Federal Environmental Protection Agency (EPA) National Contingency Plan (NCP) Product Schedule, do I still need to apply for a State license?

In most cases, YES.

The EPA exempts all sorbent and sorbent-type products from listing procedures. As discussed in question #4 above, not all sorbents are specifically exempted from the State licensing process. It depends on the product's constituents.

If a product is required to be listed on the NCP for use, it will need to also be licensed for use in California. These products would include dispersants, surface washing agents, gelling agents, herding agents, emulsifiers-deemulsifiers, and chemical booms.

The one exception is for most bioremediants. If a bioremediant is listed on the NCP, the OSPR requests that the materials provided to obtain listing be submitted to the OSPR for review. Subsequent to this review, a license is usually listed. In a few cases, additional information may need to be submitted prior to issuing a license.

6. Do I need to have my product listed on the NCP Product Schedule as well as have a State license before it can be used in California?

YES. Federal regulations governing the listing of OSCAs state that only those products appearing on the Product Schedule can be requested for use by the Federal On-Scene Coordinator. The exception is for sorbents, which are exempted from the listing process. For more information on the federal listing process, please contact Ms. Gail Thomas via the NCP Information Line at (202) 260-2342.

7. Once my product has a State license and is listed on the NCP Product Schedule, what is the process for its use?

All OSCAs licensed for use in California must be approved for use on a case-by-case basis. This means that although a product can be used, it does not necessarily have to be used to address all circumstances. It is up to the discretion of the Incident Commander/Unified Command to determine the appropriateness of any particular OSCA to address any particular situation.

Once a product is listed on the NCP and has a state license, the Incident Command/Unified Command can request its use. This is done through a formal request of the Regional Response Team (RRT). All OSCAs (except sorbents) must be approved in advance of use by the RRT. This includes dispersants, in-situ burning and chemical OSCAs. Once the RRT grants approval, a product can be used.

8. What if I do not want to use my product to address on-water oil spills?

The licensing of an OSCA is specifically for use in or on waters of the State. If the primary use of your product is to be on land, where it will not impact waters of the State, you do not need to obtain a license for its use.